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Security Council
Fifty-ninth year

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5051st meeting
Tuesday, 5 October 2004, 5 p.m.
New York

President:	Sir Emyr Jones Parry	(United Kingdom)
Members:	Algeria	Mr. Baali
	Angola	Mr. Gaspar Martins
	Benin	Mr. Zinsou
	Brazil	Mr. Sardenberg
	Chile	Mr. Maquieira
	China	Mr. Zhang Yishan
	France	Mr. De La Sablière
	Germany	Mr. Pleuger
	Pakistan	Mr. Akram
	Philippines	Mr. Mercado
	Romania	Mr. Motoc
	Russian Federation	Mr. Denisov
	Spain	Mr. Yáñez-Barnuevo
	United States of America	Mr. Danforth

Agenda

The situation in the Middle East, including the Palestinian question

Letter dated 4 October 2004 from the Permanent Representative of Tunisia to the United Nations addressed to the President of the Security Council (S/2004/779)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-53733 (E)

The meeting was called to order at 5.05 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East, including the Palestinian question

Letter dated 4 October 2004 from the Permanent Representative of Tunisia to the United Nations addressed to the President of the Security Council (S/2004/779)

The President: In accordance with the decision taken at the 5049th meeting of the Security Council, I propose, with the consent of the Council, to invite the representative of Israel to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Gillerman (Israel) took a seat at the Council table.

The President: In accordance with the decision taken at the 5049th meeting of the Security Council, I propose, with the consent of the Council, to invite the Permanent Observer of Palestine to participate in the meeting in accordance with the Council's provisional rules of procedure and the previous practice in this regard.

There being no objection, it is so decided.

At the invitation of the President, Mr. Al-Kidwa (Palestine) took a seat at the Council table.

The President: I welcome the presence at this meeting of the distinguished Secretary-General, His Excellency Mr. Kofi Annan.

The Security Council will now continue its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2004/783, which contains the text of a draft resolution submitted by Algeria, Pakistan and Tunisia.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote.

There being no objection it is so decided.

I shall first call on those members of the Council who wish to make statements before the voting.

Mr. Danforth (United States of America): The Council has before it yet another draft resolution regarding the Middle East situation, and once again the draft resolution is lopsided and unbalanced. It is dangerously disingenuous because of its many material omissions. Because of that lack of balance and because of those omissions, the draft resolution lacks credibility and deserves a "no" vote.

As members consider the current draft resolution, I ask them to perform a simple analysis. Consider first what the draft resolution says and then what it fails to say. The draft resolution condemns Israel's military actions in Gaza. It criticizes incursions into the Jabaliya refugee camp. It condemns Israeli acts of "destruction". And it laments extensive human casualties among Palestinians. It demands that Israel, as the "occupying Power" withdraw its forces immediately. Tough words. The United States has no problem with tough words, but only when they are accurate and when there is balance.

Now consider what the draft resolution does not say. It does not mention even one of the 450 Qassam rocket attacks launched against Israel over the past two years. It does not mention the 200 rockets launched this year alone. It does not mention the two Israeli children who were outside playing last week when a rocket suddenly crashed into their young bodies. It does not mention the undisputed fact that Qassam rockets have no military purpose and that they are crude, imprecise devices of terror designed to kill civilians. It does not mention that Hamas took credit for killing those Israeli children and maiming many other Israeli civilians, calling those deaths and woundings a "victory". It does not mention that the terrorists hide among Palestinian civilians, provoking their deaths, and then use those deaths as fodder for their hatred, lawlessness and efforts to derail the peace process. It does not mention the complete failure of the Palestinian Authority to meet its commitments to establish security among its people. It does not mention any of those facts. Nor does it acknowledge the legitimate need for Israel to defend itself. The draft resolution is totally lacking in balance.

There is an old saying that silence indicates consent. The silence here today is deafening. I said yesterday, and I reiterate today, that when the rest of the world gangs up on Israel, with insidious silence about terrorism, it does not advance the cause of peace; it encourages both sides to dig in, makes Israel feel isolated and backed into a corner and discourages dialogue.

The approach of the United States is to recognize that both sides need to renounce violence, that both sides need to recommit to the road map and that both sides need to move quickly to establish a Palestinian State. But until the Palestinians and those claiming to act in their name stop their use of indiscriminate acts of terror, Israel will likely continue to track down terrorists wherever they may hide, often with a tragic but unintended result of civilian casualties.

My friend Ambassador Baali reminded me that it is very important to take an even-handed approach when describing civilian casualties. Civilian casualties are always tragic. The death of children is especially tragic. It is tragic when they are Israeli children, when they are Israeli civilians. It is tragic when they are Palestinian children and Palestinian civilians. But where the death of civilians is intentional, where the death of civilians is the sole purpose of the attack, it is not only tragic; it is reprehensible.

The draft resolution before the Council today not only encourages the terrorists, it will not do anything to prevent the predictable Israeli response. Ultimately, a draft resolution such as this one emboldens terrorists, encourages counter-attacks and contributes to the ultimate terrorist goal of derailing the peace process.

The Security Council should reverse the incessant stream of one anti-Israel draft resolution after the other and apply pressure even-handedly on both sides to return to the road of peace. The United States will vote "no" on this draft resolution.

The President: It is my understanding that the Council is now ready to proceed to the vote on the draft resolution (S/2004/783). Unless there is an objection, I shall put the resolution to a vote now.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Algeria, Angola, Benin, Brazil, Chile, China, France, Pakistan, Philippines, Russian Federation, Spain

Against:

United States of America

Abstaining:

Germany, Romania, United Kingdom of Great Britain and Northern Ireland

The President: The result of the voting is as follows: 11 votes in favour, 1 against and 3 abstentions. The draft resolution has not been adopted owing to the negative vote a permanent member of the Council.

I shall now give the floor to those members of the Council that wish to make statements following the voting.

Mr. Baali (Algeria): The draft resolution on the situation in northern Gaza, which got much more than the required majority, has been defeated by the veto. We regret that such a balanced and credible text, which merely called upon Israel to put an end to its military operation, which causes so many human losses and so much damage, has not gained the unanimous endorsement of the Council.

By failing to take action, the Security Council is failing its responsibilities. It is once again failing the Palestinian people, and once again, it is sending the wrong message to the world. It is confirming that when it comes to Israel, the Security Council is unable to take action, let alone under Chapter VII. It is strengthening the impression that it is effective only when it deals with Arab countries. The latest example is resolution 1559 (2004), promptly adopted while there was no threat whatsoever to international peace and security.

The Council is causing more frustration, disappointment and despair among the Palestinians and all those that consider the Council to be the custodian of international law and the protector of the weak. More important, it is going to reinforce the sentiment of impunity among the Israeli leaders, who will feel emboldened to pursue and expand their military operation in Gaza and elsewhere.

I thank all those that joined us in voting in favour of the vetoed draft resolution. But let me say that it is a sad day for the Palestinians, and it is a sad day for the cause of justice.

Mr. Sardenberg (Brazil): Brazil voted in favour of the draft resolution on the situation in the Middle East on which the Security Council has just taken action.

The Brazilian Government strongly deplores the acts of violence carried out on the northern border of the Gaza Strip, in particular the offensive conducted by Israeli military forces during the operation code-named "Days of Penitence", which began on 29 September and has resulted in more than 70 casualties and more than 250 wounded.

It is greatly distressing that the escalation of violent acts has affected a large number of civilians, including children. While expressing our support for the call for a ceasefire, made by the Secretary-General in his note dated 3 October, our delegation hopes that, with the engagement of the international community, the parties involved in the conflict will halt the spiral of violence so as to enable a resumption, as soon as possible, of peace talks, in accordance with the parameters established by the road map.

We recall that the plan foresaw the creation, in 2005, of a Palestinian State — one that is sovereign, independent, contiguous and economically viable.

Mr. De La Sablière (France) (*spoke in French*): France voted in favour of the draft resolution submitted by Algeria, Pakistan and Tunisia. The text called for the immediate cessation of Israeli military operations in the north of the Gaza Strip. It also included a condemnation of acts of terror and reaffirmed the need for the speedy implementation of the road map. Those two factors were essential, in our view, and ensured that the text was balanced. We consider it crucial that the Council react rapidly to the continuing deterioration in the situation in the north of the Gaza Strip and appeal to reason.

France acknowledges the right of Israel to defend itself against the heinous terrorist acts perpetrated against its people, but it must do so in strict compliance with international law. The toll in human lives, which is increasing daily, and the material damage resulting from the ongoing operation in Gaza, are unjustifiable. France regrets that, once again, the Council has been paralysed on this issue that is pivotal to international peace and security.

Mr. Akram (Pakistan): Pakistan sponsored and supported the draft resolution on the situation in the Middle East, which could not be adopted due to the negative vote of one permanent member. The reasons for our support are as follows.

First, the draft resolution sought to address an emergency humanitarian situation arising from the Israeli military incursion, which, in the past few days, has led to the deaths of over 80 Palestinian civilians, including women and children. It has also left hundreds of civilians injured and without shelter.

Secondly, apart from its humanitarian dimension, the incursion clearly constitutes a serious violation of international humanitarian law, particularly the Fourth Geneva Convention, and thus warrants action by the Council under its Charter obligations, in particular those as envisaged in Articles 1, 2 and 24.

Thirdly, politically the situation poses a grave danger to the ongoing peace efforts in the region. The Council thus had a responsibility to respond.

Fourthly, the draft resolution was carefully drafted to reaffirm agreed legal positions and demand measures that would be helpful in alleviating the humanitarian suffering resulting from the latest Israeli incursion and in restarting the peace process.

Unfortunately, the Council could not meet the expectations of the Palestinians, nor of wider public opinion in the Muslim world. This clearly indicates that the Council in certain situations is unable to act. We believe that today's inaction will not contribute to the cause of peace and justice in the Middle East. The sense of helplessness and desperation among the Palestinians will increase further and aggravate an already volatile situation.

We believe that by not acting today, the Council has missed an important opportunity to contribute to peace in the Middle East. We hope that those members which have refrained from supporting the draft resolution will use their bilateral influence in persuading Israel to respond to the international calls to cease its military operations in Gaza, withdraw its forces from Gaza and to commit itself to fully implement the Quartet's road map.

Mr. Mercado (Philippines): My delegation supported the draft resolution on which the Council has just taken action. We reiterate our concern about the escalating violence in the Middle East, which has resulted in the loss of countless innocent civilian lives, including children. We urge both sides to halt the violence. We call on Israel to stop its military assault in northern Gaza. We also call on the Palestinian Authority to stop the rocket attacks by militant groups against Israel.

There will be no peace in the Middle East unless the cycle of attack and reprisal is stopped on both sides. We will say it again: violence will not produce any winners in this conflict. We continue to appeal to both sides to restart the peace process within the framework of the road map. We ask both parties to fulfil their obligations under the road map to achieve a comprehensive, just and lasting peace in the Middle East.

Mr. Maquieira (Chile) (*spoke in Spanish*): The delegation of Chile voted in favour of the draft resolution, as we condemn any act of violence, whatever its origin and whatever argument is used to justify it. It is particularly important to emphasize that when civilian victims are involved.

My delegation recognizes the right of Israel to defend its people against terrorist acts, as long as the measures it adopts for that purpose fall within the framework of international law, including international humanitarian law. Accordingly, we must speak out against the excessive and unjustified use of force, particularly against the civilian population.

My delegation once again appeals for caution and for actions that are within the context of international humanitarian law. We have also rejected the rocket attacks by Palestinian groups against the Israeli civilian population and urged the Palestinian Authority to take steps to stop such attacks.

In conclusion, we would like to remind the parties involved of their obligation to protect the civilian population and of the need to put an immediate end to acts of violence, whatever their origin. We appeal to the parties to resume negotiations within the framework of the road map.

Mr. Denisov (Russian Federation)(*spoke in Russian*): The Minister for Foreign Affairs of Russia today discussed the Palestinian-Israeli conflict in telephone conversations with the Palestinian Authority and with the Minister for Foreign Affairs of Israel. He emphasized, in the course of those discussions, that the important thing now is to take urgent steps in order to put an end to the current dangerous situation of confrontation. Since, as we understood it, the main objective of the draft resolution was to stop the violence, it was, in principle, acceptable to us — although in our view it should have been more balanced. We therefore proposed to our Algerian colleagues that they make several changes to the draft, and since those proposals were partially taken into account, we took the decision to support the draft resolution.

Mr. Motoc (Romania): Romania could not support the draft resolution before the Council today and abstained in the vote just taken. The text, in our view, did not reflect amendments submitted, which fairly describe the facts and responsibilities on both sides — Israel's and the Palestinians' — with regard to both the recent dramatic events and their reciprocal obligations to prevent the escalation of violence. Romania remains deeply concerned about the deterioration of the security situation on the ground and the fate of numerous Palestinians who are suffering from the consequences of the Israeli military incursion.

As we have stated many times before, we recognize the right of the State of Israel to defend its citizens, but this right may be exercised only within the boundaries of international law. We remain of the view that operations such as the one in northern Gaza are not helpful for the security of Israel.

There can be no solution through military means to the conflict in the Middle East. We encourage the parties to resume talks and agree to a cease-fire in order to stop the bloodshed. As stated before, a just, comprehensive and lasting peace can be achieved only through negotiations, as envisaged in the road map and in accordance with the provisions of the relevant resolutions of the Security Council.

Mr. Yañez-Barnuevo (Spain) (*spoke in Spanish*): In our debate on this question yesterday, my delegation had an opportunity to express its views on the gravity of the situation in the Middle East, and particularly in the Gaza Strip. At that time, we expressed all our views on this issue, which means that I need not speak at length now. I said that, on the basis of the principles

and statements made, we would cast a vote on the draft resolution to be submitted by some delegations.

After considering the draft resolution submitted by the delegations of Algeria, Pakistan and Tunisia, my delegation voted in favour of it. We regret that it could not be adopted by the Council. We consider that the draft resolution contains elements that are essential for dealing with the situation, especially in light of the gravity of events and the urgency with which a response must be given. Not only does the text make reference to the need for a cessation of military operations and a withdrawal of Israeli forces from the Gaza Strip, it also condemns all acts of violence, terror, the excessive and indiscriminate use of force and the physical destruction that has occurred. It calls as well for an end to the violence and for parties to respect all their obligations, particularly those proceeding from international humanitarian law. We regret that the Security Council has been unable, in this instance, to shoulder the responsibilities it bears under the Charter, and we maintain that this situation will have to remain under consideration. Meanwhile, both parties must comply with the obligations they have entered into within the context of the road map and must cooperate closely with the Quartet of international intermediaries.

Mr. Zhang Yishan (China) (*spoke in Chinese*): China supports the draft resolution proposed by the Arab group, so we cast an affirmative vote. However, we deeply regret that it was not adopted. China's position on the Middle East is clear and consistent. We believe that, as the core body for preserving international peace and security, the Security Council should bear responsibility for protecting the safety and security of civilians in the Gaza Strip. We are consistently of the view that, to achieve Middle East peace, negotiation is the only way, rather than the use of force. We once again urge the parties concerned to resume dialogue and return to political negotiations.

Mr. Pleuger (Germany): Our position with regard to the solution of the Middle East conflict is well known; I do not have to repeat it here. I just wanted to say that we tried to introduce into the draft resolution a number of amendments that were important to my delegation and to my Government. We did not succeed in getting them in, and we therefore have to abstain on the resolution.

The President (*spoke in English*): I shall now make a statement in my capacity as the representative of the United Kingdom.

The United Kingdom remains greatly concerned by the ongoing violence and bloodshed in the Gaza Strip and urges both sides to take the necessary steps to put an end to this cycle of violence. The United Kingdom condemns all acts of terrorism, including the firing of Qassam rockets into Israel, which kill innocent civilians.

The United Kingdom recognizes Israel's right to defend itself against terrorism. Its response must, however, be proportionate and conform to international law. But the current action undertaken by the Israeli defense forces is causing large numbers of civilian deaths and injuries in Gaza. Moreover, this action is not proportional to the threat Israel faces from rocket attacks. Yesterday, Foreign Secretary Jack Straw called on Israel to act with restraint, and on the Palestinian Authority to fulfil its road map commitments on security.

But the text on which we were called to vote wrongly gave the impression that fault lies only on the Israeli side. It is our view that the responsibility for taking steps to end this violence lies with both sides. It is for this reason that the United Kingdom abstained today. The Security Council resolution should acknowledge Israel's right to defend herself against terrorism and make clear, too, that Israel is obliged under international law to ensure that its actions are proportionate to the threat. The resolution should also have included a call on the Palestinian Authority to take firm action against acts of terrorism and their perpetrators.

I would like to take this opportunity to reiterate the United Kingdom's view that the solution to this conflict lies in the Quartet's road map. We urge both sides to take the steps necessary to return to the road map, which constitutes the best way forward.

I resume my function as President of the Council. The Permanent Observer of Palestine has asked for the floor.

Mr. Al-Kidwa (Palestine) (*spoke in Arabic*): I wish to begin by sincerely thanking the sponsors of draft resolution S/2004/783, on which the Council has just voted: Algeria, Pakistan and Tunisia. I wish also to thank all the delegations that voted in favour of the

draft resolution. The Palestinian people and the other peoples of the region appreciate the position they have taken.

This is yet another sad day for the Security Council. Once again the Council has failed to fulfil its Charter responsibility with respect to the maintenance of international peace and security. The Security Council has failed to take a stand on the bloody attacks that at this very moment Israeli occupation forces are carrying out against the Palestinian people in northern Gaza.

The Council failed to do that and to call for an end to bloodshed and destruction. A greater cause for sorrow is the fact that, at the beginning of today's meeting, we heard words referring to victims among Israeli children but not a single word about Palestinian children. Palestinians usually suffer much more. A Palestinian child was killed today; her name was Iman Al-Hams, aged 13. Twenty bullets riddled her body while she was on her way to school. That does not count, apparently. We also heard at the beginning of the meeting words referring to rockets launched against Israel, as if they were transcontinental missiles or weapons of mass destruction being fired by the Palestinian side against Israel. We did not hear a word about the tanks, bulldozers, military gunships and fighter jets made in the United States, or about the fléchette missiles. Nor did we hear anything about the destruction of the lives and future of the entire Palestinian people.

Allow me to tell the Council, from our own perspective, the real difference between the acts of some Palestinian groups and the excessive actions of Israeli occupying forces. Both acts are aimed largely at civilians, but the real difference is that the Palestinian groups continue to be groups working outside the law and against the will of the Palestinian Authority; whereas the actions of Israeli occupying forces are being committed by an official army pursuing the official policy of the Government of a Member State of the United Nations: an official army committing war crimes and acts of State terrorism.

Allow me also to say a word about Israel's so-called right to self-defence. It is inadmissible to talk about Israel's right to self-defence as if it were a regular peace-loving country that fully respects laws as other countries do. Under law, Israel is an occupying Power. The International Court of Justice recently addressed that matter. Of course, Israel has the right to defend its citizens. However, given that it is an occupying Power, attempts to exonerate Israel from its responsibilities as such a Power are unacceptable, neither now nor in the future.

The veto used today is the seventh veto of the current United States Administration against draft resolutions concerning the situation in occupied Palestinian territories, including East Jerusalem. It is the twenty-ninth veto cast by the United States against such draft resolutions. The fact that 29 vetoes have been cast sums up the entire tragedy of the Middle East. This has prevented the Security Council from discharging its duties and responsibilities under the Charter. It has also provided cover for the occupying Power, permitting it to pursue its violations of international law. In practical terms, those vetoes have blocked the upholding of law and undermined the status of the Security Council, which has the primary responsibility for the maintenance of international peace and security.

Obviously, none of that is in the interest of the Palestinian people. It is indeed regrettable that it is not even in the interest of the Israeli people — at least not in the long-term, as the interests of both peoples lie in the upholding of law, allowing international mechanisms to operate normally and reaching a genuine settlement, rather than a fake settlement, that will indeed lead to the creation of two States, Palestine and Israel, on the basis of the 1967 borders. I am convinced that that will eventually happen, despite all the wrong and destructive positions that have been taken, and that continue to be taken.

The President: The representative of Israel has asked for the floor. I now call on him.

Mr. Gillerman (Israel): At the outset, I would like to thank the countries that courageously opted to oppose, or not to vote for, this draft resolution. We are pleased that it was not adopted, as it should never even have been considered. It escapes me how certain countries around this table that have described the draft resolution as even-handed or balanced could have done so, when it specifically demands certain things from Israel and fails to even hint at the demands from the Palestinians or the horror that they have caused. How anyone could even try to describe this as a balanced draft resolution totally escapes us. A draft resolution that seeks to condemn mechanisms for fighting

terrorism, instead of the terrorism itself, distorts the seriousness of the issues at hand. A draft resolution that indicts the victims of terror, rather than their murderers, is wrong and shameful.

Ignoring its obligations, including those under the very first phases of the road map, the Palestinian leadership has allowed terrorists to act with impunity from within its territory. They commit their atrocities from within Palestinian civilian areas and aim their aggression towards Israeli civilian populations, leading to tremendous harm to both groups. Accordingly, Israel will respect its obligation to defend its citizens while also respecting its obligations to international humanitarian law. Israel has the right and the duty to defend itself and its citizens from the rain of missiles falling over its communities so long as the Palestinian leadership does nothing to stifle that and other forms of terrorism against the Israeli people.

The fact is, it is the evil Palestinian leadership that has brought this horror and destruction upon its own people by holding it hostage to its evil grip of terror. We have heard a lot today about the occupied territories; we have not heard a word of admission that, were it not for their tragic leadership and their choice of terror rather than a settlement when one was offered, the Palestinian people would long ago have had its own State.

This draft resolution would have done nothing to bring about an end of suffering for either Israelis or Palestinians. Rather, it would have worked against the vital interests of both groups. By focusing solely on Israeli actions to stop terrorism and failing to properly express and expressly condemn the terrorism that is the cause of those actions, it would have emboldened the terrorists to continue to hurt both communities and to continue to obstruct the path to peace.

The struggle towards peace must be advanced. One-sided draft resolutions such as this one do not contribute towards the goal of a peaceful Middle East. They only contribute to allowing terror to continue and to keeping peace forever out of our grasp.

The Security Council has an obligation to the victims of terrorism and to the struggle for peace. Palestinian terrorist organizations and the regimes that support them are the true enemies of peace and of the Palestinian and the Israeli peoples. They should be the focus of the Council's attention, because they are the ones that are obstructing peace. Only by confronting them directly can we regain our footing on the road map once again.

The President: There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 5.55 p.m.